



June 21, 2018

The Honorable Vince Chhabria
United States District Court for the
Northern District of California
450 Golden Gate Avenue
San Francisco, California 94102

RE: *In Re Facebook, Inc., Consumer Privacy User Profile Litigation*
MDL No. 2843/Case No. 18-md-02843-VC

Your Honor:

I respectfully submit this application for appointment as lead or co-lead counsel in *In Re: Facebook, Inc., Consumer Privacy User Profile Litigation* (“Matter”). This Matter will involve up to 87 million Plaintiffs and require a lead attorney who can bring (i) extensive experience in complex and novel class actions (including data breach class actions), mass torts and bet-the-company civil litigation; (ii) a fresh perspective to class action litigation; and (iii) a history of cooperation and commitment. As lead counsel, I will bring all of these to this Matter.

In addition, I will bring the diversity and fresh perspective so sorely lacking in the current MDL leadership bar. Historically, more than 60% of the available MDL leadership positions are awarded to repeat players. It is thus not surprising that MDL leadership panels suffer from a profound shortage of diversity. In 2010, Judge Harold Baer, Jr. noted the importance of diversity in lead counsel appointments in *In re Gildan Activewear Inc. Securities Litigation*. Since then, more and more courts, legal scholars, legal and judicial organizations, and observers have urged courts to make diverse lead counsel appointments in class action and multi-district litigation—and, in the process, to bring forward new faces of different backgrounds and perspectives to the MDL bar. Appointing me as lead counsel for the Plaintiffs would allow the Court to do just that.

History of Success in Data Breach Cases, Complex and Novel Class Actions and Mass Torts

I have been the managing partner of Murphy, Falcon & Murphy, a singular collection of elite trial lawyers, since 1999. An African-American owned firm, Murphy, Falcon & Murphy was founded in Baltimore City over 70 years ago by my grandfather, Judge William H. Murphy, Sr. With my leadership over the past two decades, we have established a unique track record of success - with over \$850 million in verdicts and settlements in courts around the country, including a \$276 million verdict against a major national bank that included the largest punitive damages award in Maryland history at that time; a \$185 million settlement against Ernst & Young, the largest single-defendant settlement in Maryland history at that time; a \$55 million class action settlement on behalf of a community whose ground water had been contaminated by fly ash; and a \$50 million settlement on behalf of a class and individuals who had unnecessary stents implanted at a local hospital in Baltimore.

I have also served as defense counsel in national consumer fraud and employment class actions and in products liability MDLs, providing me with a unique understanding of corporate

perspectives, priorities, and goals in litigations like this one. Notably, H&R Block initially hired me as local counsel in a consumer fraud class action that was filed in Baltimore. Soon thereafter, I was elevated to lead H&R Block's defense of multiple class actions in multiple jurisdictions as national coordinating counsel. That litigation covered a variety of claims related to H&R Block's Refund Anticipation Loans ("RAL") program. As national coordinating counsel, I managed discovery, opposed class certification in all cases, prepared all cases for trial, forged creative settlement solutions, and spearheaded settlement negotiations in an ever-shifting procedural landscape. I was responsible for managing and coordinating the efforts of multiple national law firms across the country, as well as negotiating and working closely with numerous plaintiffs' counsel. In that role, I was able to efficiently, cooperatively, and effectively resolve tens of millions of claims in federal and state courts in more than six jurisdictions. The extent and breadth of my experience leading the defense of complex multi-jurisdictional matters have significantly informed my representation of plaintiffs.

In addition, I have not only led complex and mass tort litigation, I have played an integral role in leading data breach litigation nationwide. This past winter, I had the honor of being appointed to the Plaintiffs' Steering Committee in *In Re: Equifax, Inc.*, MDL No. 2800 (N.D. Ga.) by the Honorable Thomas W. Thrash. This experience will serve as the foundation for my leadership of Plaintiffs' counsel in this very case.

Bringing a Fresh Perspective

Diversity in class action and multi-district leadership is not just a matter of historical equity; it is also a question of properly representing the interests of the Plaintiffs themselves. Selecting a person of color and a diverse, minority owned firm to lead this litigation should be given special consideration given the homogenous landscape of lead counsel in nationwide MDLs. In addition, the diverse perspectives and skills offered by attorneys and firms with varied social, legal, and ethnic backgrounds helps Plaintiffs secure the representation that reflects all of them. Complex cases are a microcosm of a diverse nation.

The class members victimized by Facebook's conduct are members of all fifty states and are diverse as to race, ethnicity, socio-economic status, gender, sexual orientation and gender identity. In many instances, they were targeted based on race, gender and political leanings. A similar level of diversity in their legal counsel is necessary to increase innovation, boost creative thinking, and reduce the likelihood of decision-making biases and collusive settlements, all of which are associated with repeat class action players. In short, the diverse perspectives that come from diverse counsel is in the best interests of the members of the class.

As a 100% minority owned firm, Murphy, Falcon & Murphy has built its reputation on fighting for the rights of the underrepresented and underprivileged. The firm's attorneys come from varied social, legal, and ethnic backgrounds and work collaboratively so as to ensure that each differing perspective is considered and marshaled for the client's benefit. Our innovative thinking, diversity of perspective, and creative approach—skills and attributes that we bring to every case we pursue—are unmatched and are the reason for our continued success. Throughout my career, I have brought new and innovative solutions to the table that have been informed by my diversity and will do so here.

Cooperation and Commitment

My firm has sufficient financial resources, experience, and manpower, and I am willing and able to fully commit to the prosecution of this Matter. I frequently pursue complex, time-consuming cases that require significant financial resources and will do so here.

My extensive experience in class action and mass tort litigation on both sides of the table, my prominent involvement in data breach litigation, and the unique perspective and approach that I and my diverse firm bring to the cases we pursue, have all served to win me the support of many prominent lawyers in the class action and data breach bar. Lawyers like Eric Gibbs, Michael Sobel, Linda Dardarian, Norman Siegel, and April Doss have all rallied to the support of this petition. They know that I am one of the foremost plaintiffs' attorneys in mass tort, class action and plaintiffs' litigation—and that I bring a new face and fresh perspective to this case. I am humbled to have their support and am proud to reciprocate my support for their petitions for lead counsel. The effective prosecution of this matter depends on the collaboration of diverse and dedicated firms. It is essential that lead counsel and any supporting committee forge a strategy to obtain an optimal, just, and meaningful resolution of this multi-faceted case. The Court's leadership appointments can and will provide an opportunity for firms to collaborate and develop broad agreement for effective resolution. I am a proponent of an experienced, broad, diverse and inclusive leadership team that will advance the interests of the Class, and I have a track record of results within the spirit of collaboration and team work. I would be deeply honored to join such a leadership structure.

By selecting a diverse, deeply experienced, highly effective, and powerful new face to lead this litigation, this Court will best serve the potential Plaintiffs in this Matter. Such lead counsel would be backed by several of the most powerful, varied, intelligent, and incisive voices in data privacy and class action litigation, and would come with decades of experience leading complex litigation and taking on the largest of corporations on behalf of Plaintiffs. By appointing me as lead or co-lead counsel in this matter, this Court can change the face of data breach class action litigation, provide Plaintiffs with a strong advocate to lead their cause, and pave the path for other trailblazers in future litigation. Courts have long promised that there would come a day when the leadership of class action litigation would begin to reflect the diversity and richness of America without compromising excellence or experience. I would be honored if this Court would make good on that promise by appointing me as lead or co-lead counsel or as a member of the Executive Committee in this Matter.

Respectfully submitted,



William H. Murphy III